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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,179	03/10/2000	NICOLANGELO PEDUTO	022701-854	4762

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21
EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

A 3-21

Office Action Summary

Application No.

09/462,179

Applicant(s)

PEDUTO ET AL.

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 19.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 first paragraph rejection of Claims 12 and 24, of record on page 2 of the previous Action, is withdrawn.

REPEATED REJECTIONS

2. The 35 U.S.C. 103(a) rejection of Claims 1 – 12 and 19 – 26 as being unpatentable over Kerschbaumer (U.S. Patent No. 5,219,003), of record on page 3 of the previous Action, is maintained.

The 35 U.S.C. 103(a) rejection of Claim 13 as being unpatentable over Kerschbaumer (U.S. Patent No. 5,219,003) in view of VanBuskirk et al (U.S. Patent No. 5,357,030), of record on page 4 of the previous Action, is maintained.

The 35 U.S.C. 103(a) rejection of Claims 14 – 18 as being unpatentable over Kerschbaumer (U.S. Patent No. 5,219,003) in view of Princiotta et al (European Patent No. 0646627), of record on page 5 of the previous Action, is maintained.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 112 first paragraph rejection of Claim 12 and 24, of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejection is therefore withdrawn.

Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 1 – 12 and 19 – 26 as being unpatentable over Kerschbaumer (U.S. Patent No. 5,219,003), of record on page 3

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of the previous Action, 35 U.S.C. 103(a) rejection of Claim 13 as being unpatentable over Kerschbaumer (U.S. Patent No. 5,219,003) in view of VanBuskirk et al (U.S. Patent No. 5,357,030), of record on page 4 of the previous Action, and 35 U.S.C. 103(a) rejection of Claims 14 – 18 as being unpatentable over Kerschbaumer (U.S. Patent No. 5,219,003) in view of Princiotta et al (European Patent No. 0646627), of record on page 5 of the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 5 of Paper No. 18, that the rejection is improper because it renames the middle layer of Kerschbaumer ‘the external layer;’ the middle layer of Kerschbaumer, Applicant argues, is quite clearly the middle layer of the multi – layered fuel line disclosed by Kerschbaumer. However, the ‘middle layer’ disclosed by Kerschbaumer is clearly a layer which is external to the innermost layer (internal layer; column 2, lines 39 – 47) disclosed by Kerschbaumer.

Applicant also argues, on page 6, that one of ordinary skill in the art would not have been motivated to modify the fuel line disclosed by Kerschbaumer by using a material for forming the middle layer to form the external layer, because Kerschbaumer discloses that the middle layer comprises a polyamide which is substantially free of impact resistance modifiers. However, as stated above, the ‘middle layer’ disclosed by Kerschbaumer is clearly a layer which is external to the innermost layer disclosed by Kerschbaumer.

Applicant also argues, on page 7, that Kerschbaumer does not disclose an impact resistance modifier present in the composition for forming the internal layer in the amount of

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1%. However, as stated on page 3 of the previous Action, Kerschbaumer discloses a finite amount of impact resistance modifier, therefore in the amount of at least 1% or less.

Applicant also argues on page 7 that the rejection is improper because Van Buskirk et al fails to disclose a does not disclose a multilayer structure comprising an external layer comprising the claimed polyamide. However, as stated on page 4 of the previous Action, VanBuskirk et al teach the addition of a chain extender to polyamide 6 for the purpose of improving the physical characteristics of the polyamide 6 in the making of extruded products (column 1, lines 38 – 59; column 2, lines 58 – 68).


It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for the addition of a chain extender to polyamide 6 in Kerschbaumer in order to improve the physical characteristics of the polyamide 6 in the making of extruded products as taught by VanBuskirk et al.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
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HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

9/17/03